tent to restrain. The difference between the Patten Case and that of Ware & Leland Co. *v.* Mobile County, 209 U. S. 405, 28 Sup. Ct. 526, 52 L. Ed. 855, 14 Ann. Cas. 1031, illustrates a distinction to be drawn in cases which do not involve interstate commerce intrinsically but which may or may not be regarded as affecting interstate commerce so directly as to be within the federal regulatory power. In the Ware & Leland Case, the question was whether a state could tax the business of a broker dealing in contracts for the future delivery of cotton where there was no obligation to ship from one state to another. The tax was sustained, and dealing in cotton futures was held not to be interstate commerce, and yet thereafter such dealings in cotton futures as were alleged in the Patten Case, where they were part of a conspiracy to bring the entire cotton trade within its influence, were held to be in restraint of interstate commerce. And so in the case at bar coal mining is not interstate commerce, and obstruction of coal mining, though it may prevent coal from getting into interstate commerce, is not a restraint of that commerce, unless the obstruction to mining is intended to restrain commerce in it, or has necessarily such a direct, material, and substantial effect to restrain it that the intent reasonably must be inferred."

When One Ceases to Be a Passenger.—In Washington, etc., R. Co. *v.* State, 116 Atl. 911, the Court of Appeals of Maryland held that though one waiting at the place provided for passengers might have been a passenger, he no longer sustained that relation, where just before the arrival of his train he abandoned his intention of taking it, or left the station platform and walked across the tracks, where there was no occasion for him to go as a passenger.

The court said in part:

"It is sought to distinguish this case from cases like those above cited on the ground that the relation of Goodwin to the company was that of a passenger. It might well be held that he sustained that relation while he was on the company's property approaching, and standing at, the place provided for passengers to Baltimore. But it would be stretching the technical relation very far to hold that one who had sustained such a relation merely because of his going to a railway station with the intention of taking a train continued in that relation after he abandoned such intention or left the station platform just before the arrival of his train and walked across the tracks where there was no occasion for him to go as a passenger. 10 Corpus Juris, p. 613, sec. 1040, b.

"If he had been leaving a train within a reasonable time after its arrival and by ways provided by the company for that purpose, the case would be different, as under such circumstances the company must provide safe exit for its passengers, and where it is necessary to cross tracks in approaching or leaving a train a passenger—'may assume that the railroad company will so operate its other trains, or

otherwise perform its duty, as not to put him in peril, and he is not under the same obligation to look out for his own safety by looking and listening as is incumbent in general on a person who approaches a railroad track with intent to cross it; and accordingly it has been held that it is not contributory negligence per se for a passenger * * * from the depot to the train, or vice versa, to attempt to cross an intermediate track without first looking and listening for the purpose of ascertaining whether a train is approaching or not, but the question is ordinarily one for the jury to decide under all the facts and circumstances of the case. But this rule does not apply where there is no invitation or inducement to cross, as where the car or train is not standing at a place appointed by the carrier for the exit or entrance of passengers, or where the passenger alights from the wrong side of a train.' 10 C. J. 1112.

"Here there was no train discharging passengers, and therefore no occasion for the company to look out for their safety. See 10 C. J. 1109 et seq.; W., B. & A. E. R. R. Co. *v.* State, Use of Goodwin (former appeal) 137 Md. 543, 113 Atl. 338; B. & O. R. R. Co. *v.* Mahone, 63 Md. at page 148. As to injury to passengers standing too near to track, see Pennsylvania R. R. Co. *v.* Bell, 122 Pa. 58, 15 Atl. 561; Halbert *v.* St. Louis & N. E. Ry. Co., 147 Ill. App. 316; Pere Marquette R. R. Co. *v.* Strange, 171 Ind. 160, 84 N. E. 819, 20 L. R. A. (N. S.) 1041; S. W. Ry. Co. *v.* Douglas, 119 Ark. 33, 175 S. W. 518; Holmes *v.* Southern Pac. R. R. Co., 97 Cal. 161, 31 Pac. 834; Pendleton *v.* Richmond, etc., R. R. Co., 104 Va. 813, 52 S. E. 574."